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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/047,749	
	Filing Date	October 23, 2001	
	First Named Inventor	Lehmann, Paul	
	Art Unit	1647	
	Examiner Name	Nichols, Christopher	
Total Number of Pages in This Submission	8	Attorney Docket Number	20356 US1

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual	Patricia S. Rocha-Tramaloni
Signature	
Date	August 27, 2003

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application

Inventor: Paul Lehmann

Group: 1647 ✓

Serial No. 10/047,749, filed October 23, 2001
(Ref. No. 20356 US1)

Examiner: Nichols, Christopher J

For: **METHOD FOR TREATING DISTURBANCES IN IRON METABOLISM USING A
COMBINATION OF ERYTHROPOIETIN AND IRON**

COMMUNICATION AFTER FINAL REJECTION
UNDER 37 CFR § 1.116

RESPONSE UNDER 37 CFR 1.116

EXPEDITED PROCEDURE

EXAMINING GROUP

1647

Nutley, New Jersey 07110
August 27, 2003

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This communication is responsive to the final office action dated July 2, 2003, a response to which is due on or before October 2, 2003. Entry of this communication is respectfully requested to place the application in condition for allowance.

Submitted herewith is a terminal disclaimer over commonly owned US Pat. No. 6,372,715 B1.

Discussion

The claims pending in this application are claims 15, 16 and 19-29. All prior objections to the specification and rejections of the claims are withdrawn.

No new subject matter is presented by this communication.

Pending claims 15, 16 and 19-27 are newly rejected under the judicially created doctrine of obvious-type non-statutory double patenting as being unpatentable over US Pat. No. 6,372,715 B1 in view of Mercuriali and Inghilleri., "Iron administration to optimize the effect of r-HuEPO in the surgical setting," Erythropoiesis: New Dimension in the Treatment of Anemia, 6:67-76 (1995), taken together with Pincus *et al.*, "Multicultural Study of Recombinant Human Erythropoietin in Correction of Anemia in Rheumatoid Arthritis," The American Journal of Medicine 89(2):161-168. Applicants submit herewith a terminal disclaimer over the '715 patent. This rejection is thus overcome.

Serial No. 10/047,749
Filed: October 23, 2001

Conclusion

In view of the foregoing comments and the submission of the terminal disclaimer, this application is now in condition for allowance and applicants solicit early action to that end.

Respectfully submitted,



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